

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 161 of 2015**

1. Smt. Godawari Bareth Wd/o. Late Mahesh Ram, aged about: 38 years,
2. Kumari Shalini D/o Late Mahesh Ram, aged about 17 years,
3. Kumari Krishna D/o Late Mahesh Ram, aged about: 15 years,
4. Darshan Kumar S/o. Late Mahesh Ram, aged about : 13 years,
5. Kumari Vidya D/o Late Mahesh Ram, aged about 11 years,

Appellant No. 2 to 5 are minor and presented this appeal, through legal guardian mother appellant No. 1, Godawari Bareth Wd/o Late Mahesh Ram, aged about:38 years,

6. Phekani Bai Wd/o. Late Ramwakil Bareth, aged about :65 years,

All are R/o. Village: Sukli, Police Station: Janjgir, Tahsil: Janjgir, Revenue and Civil District: Janjgir- Champa (CG.).

---- Appellants/Claimants**Versus**

1. Naresh Khalkho S/o Ganpat Singh Khalkho, aged about 24 years, R/o Village: Panchwatipara Chandrawati, Police Station: Pasan, District: Korba (C.G.). At present R/o Village & Post: Kalmi, Police Station: Kotra Road, Revenue and Civil District: Raigarh (C.G.) (driver of the offending vehicle)
2. Medini Prakash Negi S/o. Hira Lal Negi, aged about: 44 years, R/o Village: Kosamnara, Raigarh, Tahsil: Raigarh, District: Raigarh (C.G.)
(owner of the offending vehicle)
3. United India Insurance Company Limited, Through: Branch Manager, Branch Office, Chakradhar Nagar Chowk, Raigarh, Tahsil: Raigarh, District: Raigarh (C.G.).
(Insurer of the offending vehicle)

---- Respondents

For Appellants : Shri D. Kushwaha, Advocate.

For Respondent No.3 : Ms. Chitra Shrivastava, Advocate.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

30.01. 2019

This appeal is by the claimants against the award dated 17.12.2014, passed by 3rd Additional Motor Accident Claims Tribunal, Janjgir, District- Janjgir-Champa, C.G. in Claim Case No. 21/2014 awarding total compensation of 23,41,000/- with interest @ 9% per annum from the date of application till realization, fastening liability on the non-applicants jointly and severely.

02. As per claim petition, on 31.12.2012, Maheshram Bareth, aged about 42 years, earning Rs.50,000/- per month as petty contractor, died in the motor vehicular accident caused due to rash and negligent driving of vehicle bearing registration No. CG13-D/3931 by non-applicant No.1- Naresh Khalkho. The vehicle is owned by the non-applicant No. 02-Maidini Prakash Negi and insured with non-applicant No. 3- United India Insurance Company Ltd.

03. On claim petition being filed by the claimants/wife, children & mother of the deceased- Maheshram Bareth under Section 166 of the Motor Vehicles Act, the Tribunal considering the evidence led by both the parties passed an award as mentioned above.

04. Learned counsel for the appellants/claimants submits that multiplier of 11 has wrongly been applied by the Tribunal and considering the age of the deceased, it should have been 14. He also submits that no amount towards future prospect has been granted to the claimants. He further submits that the amount awarded under the conventional heads also being on the lower side deserves to be enhanced suitably and amount towards loss of filial & parental consortium has been granted is also on the lowerside.

In support of above contention, reliance has been placed on the decisions of the Hon'ble Supreme Court in the matters of ***Smt. Sarla Verma and others VS. Delhi Transport Corporation and another, (2009) 6 SCC 121, National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680, Magma General Insurance Co. Ltd. Vs. Nanuram @ Chuhru Ram and others in Civil Appeal No.9581/2018 arising out of SLP (Civil) No.3192/2018.***

05. On the other hand, learned counsel for the respondent/insurance company supports the impugned award and submits that the Tribunal considering all the relevant aspects of the matters has rightly awarded compensation which needs no interference by this Court.

06. Heard learned counsel for the parties and perused the material available on record.

07. So far as the income of the deceased is concerned, the learned Tribunal after deducting the income tax considered the income of the deceased as Rs. 2,81,383/- per annum is just and proper looking to his income tax return Ex. P/3 which remained unchallenged. Looking to the age of the deceased i.e. 42 years, as per settled principle of law laid down by the Supreme Court in the matter ***Smt. Sarla Verma (supra)*** the multiplier of 14 would be applicable instead of 11 as applied by the Tribunal Further, considering the dependency, the nature of his job and the decisions of the Hon'ble Supreme Court in *Pranay Sethi, Magma General Insurance Co. Ltd. (supra)*, the claimants are held entitled for compensation in the following manner:

Sl. No.	Heads	Calculation (in rupees)
01.	Income of the deceased per annum (After deduction of income tax)	Rs. 2,81,383/- per annum
02.	25% of (1) above to be added towards future prospects.	Rs. 2,81,383+70,346= Rs. 3,51,729/-

03.	After 1/4 th deduction towards personal and living expenses of the deceased	Rs.3,51,729-87,933= Rs. 2,63,797/-
04.	Multiplier of 14 to be applied	Rs. 36,93,158/-
05.	Towards loss of estate, loss of consortium and funeral expenses	Rs. 70,000/-
06	Towards loss of parental consortium(to appellant Nos. 2 to 6 Rs. 5,000/-each)	Rs. 25,000/-
07	Total compensation	Rs. 37,88,158/-

Since the Tribunal has already awarded Rs.23,41,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.14,47,158/-with interest @ 9% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

08. In the result, the appeal is allowed in part with modification in the impugned award to the above extent.

Sd/-

(Gautam Chourdiya)
Judge